

# ATTACHMENT 102

\*\*\* CONFIDENTIAL ATTORNEYS EYES ONLY \*\*\*

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE )  
COMPANY, INC., ) Case No.:  
 ) 3:21-cv-03496-VC  
Plaintiff, )  
 ) Lead Case No.:  
vs. ) 3:21-cv-03825-VC  
 )  
INTUITIVE SURGICAL, INC., )  
 )  
Defendant )  
 )  
IN RE: DA VINCI SURGICAL ROBOT )  
ANTITRUST LITIGATION )  
 )  
THIS DOCUMENT RELATES TO: )  
ALL ACTIONS )  
 )

\*\*\* CONFIDENTIAL ATTORNEYS EYES ONLY \*\*\*

30(b)(6) DEPOSITION OF:

KEITH ROBERT JOHNSON

THURSDAY, OCTOBER 27, 2022

9:06 a.m. Mountain Standard Time

REPORTED BY:  
Vickie Blair  
CSR No. 8940, RPR-CRR  
JOB NO. 5539883  
PAGES 1 - 122

Page 1

Deposition of KEITH ROBERT JOHNSON, the witness, taken  
on behalf of the Defendant, on Thursday,  
October 27, 2022, 9:06 a.m. Mountain Standard Time,  
before VICKIE BLAIR, CSR No. 8940, RPR-CRR.

APPEARANCES OF COUNSEL VIA ZOOM:

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8 ALSO PRESENT:

9 RAMON A. PERAZA, Videographer  
10  
11  
12  
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\*\*\* CONFIDENTIAL ATTORNEYS EYES ONLY \*\*\*

1           Q       All right. I will take breaks from time 09:10:47  
2       to time. If you need a break for some reason, just let 09:10:50  
3       me know, I'll do my best to accommodate that. I might 09:10:52  
4       just have a few more questions that I ask that we take 09:10:55  
5       before we go on break. 09:11:01

6                   Is there any reason you can't provide full 09:11:02  
7       and accurate testimony today? 09:11:04

8           A       None. 09:11:06

9           Q       Okay. I'd like to mark as Defendant's 09:11:06  
10       Exhibit 135 Intuitive's notice of deposition to 09:11:12  
11       Surgical Instrument Company. 09:11:18

12                   Austin, that is tab one. 09:11:34

13                   All right. That's available for you on 09:11:40  
14       the Exhibit Share platform now, Mr. Johnson. 09:11:42

15                   Do you recognize what we've marked as 09:11:47  
16       Defendant's Exhibit 135? 09:11:50

17           A       I don't see it. Where do I click? I'm 09:11:51  
18       sorry. 09:11:54

19                   (Deposition Exhibit 135 was marked 09:11:54  
20       for identification and is attached 09:11:54  
21       hereto.) 09:11:55

22       BY MR. CHAPUT: 09:11:55

23           Q       So if you just refresh the screen, then it 09:11:55  
24       will show up. 09:11:57

25           A       Are we under the Keith Johnson file or the 09:12:07

Page 10

1 Surgical Instrument file? 09:12:10

2 Q The Surgical Instrument file, it's 09:12:13

3 probably the bottom file on your -- on your screen. 09:12:16

4 A Okay, I have it. 09:12:21

5 Q And do you recognize Exhibit 135? 09:12:23

6 A Yes. 09:12:34

7 Q Okay. If you would turn to page three of 09:12:34

8 Exhibit 135, I'll just point your attention to topics 09:12:36

9 two and five. 09:12:40

10 Topic two is your advertising promotional 09:12:43

11 marketing and other informational materials and 09:12:47

12 communications relating to the services you market or 09:12:49

13 perform on or connection -- or in connection with 09:12:52

14 EndoWrist instruments. 09:12:58

15 Do you see topic two? 09:13:01

16 A Yes. 09:13:02

17 Q And are you prepared to testify on behalf 09:13:02

18 of SIS regarding topic two? 09:13:06

19 A Yes. 09:13:07

20 Q All right. And topic five is your 09:13:07

21 relationship with Restore Robotics, LLC; Restore 09:13:09

22 Robotics Repairs, LLC; MediVision, Inc.; Clif Parker 09:13:16

23 Robotics, LLC; Rebotix Repair, LLC; and Benjamin 09:13:21

24 Biomedical, Inc. 09:13:24

25 Do you see topic five? 09:13:26

1	A	Yes.	09:13:28
2	Q	And are you prepared to testify regarding	09:13:28
3		topic five on behalf of SIS?	09:13:30
4	A	Yes, I am.	09:13:33
5	Q	All right. How did you prepare to testify	09:13:34
6		regarding topics two and five in our notice to SIS?	09:13:40
7	A	My preparation was with our legal team.	09:13:47
8	Q	Okay. And what did you do to prepare	09:13:53
9		yourself so that you would be ready to answer questions	09:13:56
10		regarding topics two and five in the notice?	09:13:58
11	A	It was more of a general discussion with	09:14:01
12		Josh and Rick about this proceeding today and what we	09:14:06
13		would be doing.	09:14:11
14		The items listed are things that I'm	09:14:11
15		comfortable with because it's -- especially topic two	09:14:14
16		is something I do every day involved in customer	09:14:19
17		communication and marketing of our services.	09:14:24
18	Q	So, from your perspective, based on your	09:14:25
19		role at SIS, there was not further preparation that you	09:14:27
20		needed to do to be ready to testify on these topics on	09:14:30
21		behalf of SIS; is that fair?	09:14:34
22	A	That's fair, no.	09:14:36
23	Q	Just so we're clear, did you review any	09:14:37
24		documents in preparation for the deposition?	09:14:40
25	A	I did review --	09:14:42

1 then eventually expanded? 12:10:58

2 A Yes. 12:11:03

3 Q In the first paragraph, top left corner of 12:11:03

4 the page, the second sentence referring to "robotic 12:11:10

5 assisted surgeries" says (as read): 12:11:14

6 These ground breaking procedures are 12:11:17

7 saving lives, reducing surgical site 12:11:18

8 infections, and improving patient 12:11:21

9 outcomes. 12:11:24

10 Do you see that sentence? 12:11:25

11 A Yes. 12:11:27

12 Q Does SIS agree that robotic assisted 12:11:27

13 surgery provides those benefits? 12:11:31

14 MR. VAN HOVEN: Objection to form. 12:11:32

15 THE REPORTER: I'm sorry, Mr. Johnson, I 12:11:46

16 didn't hear your answer. 12:11:47

17 THE WITNESS: Yes, I would agree. 12:11:49

18 BY MR. CHAPUT: 12:11:50

19 Q What is the point of comparison? So 12:11:56

20 saving lives compared to what, or reducing surgical 12:11:58

21 site infections compared to what? 12:12:03

22 A I feel that the -- the value that the 12:12:24

23 robot brings from a quality of surgery aspect has done 12:12:42

24 some pretty great things for the hospitals, for health 12:12:48

25 care. 12:12:51

1 Q Okay. And I'm just trying to understand, 12:12:51  
2 what is that in comparison to? Is that in comparison 12:12:55  
3 to laparoscopic surgery, open surgical modality, or 12:12:59  
4 both? 12:13:05

5 A In 25 years of doing this, being involved 12:13:05  
6 in surgery, you know, our biggest problem is that we're 12:13:08  
7 humans, and I think that the robot helps correct some 12:13:11  
8 human errors when it comes to the actual procedure 12:13:17  
9 itself. 12:13:20

10 Q And, when you're saying that it helps to 12:13:20  
11 correct human errors when it comes to the actual 12:13:28  
12 procedure, you're -- you're comparing that to if the 12:13:30  
13 same procedure were performed by a surgeon using an 12:13:33  
14 open modality or an traditional laparoscopic modality; 12:13:37  
15 is that right? 12:13:43

16 MR. VAN HOVEN: Objection to form. 12:13:43

17 THE WITNESS: Well, there's not going a 12:13:44  
18 comparison in infections between open and laparoscopic. 12:13:47  
19 That's -- that's not even a question for anybody. The 12:13:50  
20 infection rate is going to be substantially lower in a 12:13:52  
21 laparoscopic procedure. 12:13:56

22 But I think, in my professional opinion, 12:13:58  
23 that the robot does bring some value when it comes to 12:14:04  
24 patient outcomes. 12:14:07

25 /// ///

1 BY MR. CHAPUT: 12:14:12

2 Q So the comparison as to surgical site 12:14:14

3 infections, you're saying, would be specific to a 12:14:16

4 comparison between an open modality and the robotic 12:14:19

5 assisted surgical modality; is that right? 12:14:23

6 A Can you ask that question one more time? 12:14:34

7 Q Sure. 12:14:36

8 The comparison here -- SIS says that 12:14:36

9 robotic assisted surgeries are reducing surgical site 12:14:43

10 infections, and so I'm trying to understand, reduce 12:14:47

11 it -- reducing surgical site infections compared to 12:14:51

12 what, and my understanding from what you just said 12:14:54

13 about laparoscopic surgeries would be that the 12:14:57

14 comparison would be to open procedures; is that right? 12:14:59

15 MR. VAN HOVEN: Objection to form. 12:15:01

16 THE WITNESS: I would agree with that. 12:15:06

17 BY MR. CHAPUT: 12:15:07

18 Q There is an asterisk in that same section 12:15:12

19 in the top left with some italicized text, and it reads 12:15:15

20 (as read): 12:15:15

21 The Si EndoWrist inspection and 12:15:19

22 recovery program does not conflict with 12:15:25

23 any OEM warranties or service programs. 12:15:26

24 Do you see that sentence? 12:15:30

25 A Yes. 12:15:30

1 STATE OF CALIFORNIA )

2 ) ss.

3 COUNTY OF LOS ANGELES )

4 I, Vickie Blair, CSR No. 8940, RPR-CRR, in  
5 and for the State of California, do hereby certify:

6 That, prior to being examined, the witness  
7 named in the foregoing deposition was by me duly sworn  
8 to testify as to the truth, the whole truth, and  
9 nothing but the truth;

10 That said deposition was taken before me  
11 at the time and place therein set forth, and was taken  
12 down by me stenographically and thereafter transcribed  
13 via computer-aided transcription under my direction and  
14 is a true record of the testimony given;

15 I further certify I am neither counsel  
16 for, nor related to, any party to said action, nor  
17 interested in the outcome thereof;

18 IN WITNESS WHEREOF, I have hereto  
19 subscribed my name this 5th day of November, 2022.

20

21

22

23

24

25



Vickie Blair, CSR No. 8940, RPR-CRR